

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT REGARDING MAX
DUTTON'S CLAIMS**

I-5

Declaration of Lewis Timothy Langley Exhibit 5
T. Langley's Redbook Investigation Executive Summary (2/5/2010)



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HR Investigations / People Division

To:	Marlene Hunter, Divisional Human Resource Sr. Director	CC:	Ruben Perez, HR Investigations Director
From:	Tim Langley, HR Investigator		Gisel Ruiz, Senior Vice President, People, Walmart Stores US
Date:	February 5, 2010		
Subject:	Red Book Investigation Executive Summary Case # 7421		
Reporting/ Affected Associate:	Max Dutton, Store Manager – Store 2000		
Responding Associate:	Eric Litchfield, Market Manager Tracey Battle, Market Human Resource Manager		
Reporting Date:	January 20, 2010		
HR-19 Allegation Type:	Age Discrimination		
Investigation Conducted:	January 20, 2010 – February 5, 2010		
Location:	Market NC 17 / Store 2000		
Investigating Manager:	Tim Langley		

Summary of Allegation(s):

Reporting Associate, Max Dutton, reported the following concerns related to a potential violation of Walmart policy;

Allegation #1: Eric Litchfield and Tracey Battle targeted him to remove him from his store and from Walmart because of his age, gender and time in his store. Max stated multiple investigations were conducted in his store resulting in his unfair treatment.

Investigation Findings:

Based on interviews conducted and documentation reviewed, there is no evidence found at this time to substantiate that a violation of Walmart's Discrimination and Harassment Policy (HR-19) has occurred.

Specifically;

Finding #1: In June 2009, an investigation began at Store 2000, Kitty Hawk, NC, after Tonja Moore, a former assistant manager, alleged that Max Dutton circulated a photograph of her with a caption indicating Tonja was often sick because she did not eat meat. On September 10, 2009, as the investigation continued and evidence of other infractions was discovered, Max sent an e-mail to Eduardo Castro-Wright, Mike Duke, Bill Simon, Mike Moore, Rosalind Brewer, David Carmon and Tom Hyde alleging that he was being treated unfairly by his Market Team because they had not informed him why the investigation was being conducted. Max stated in his letter, "A few associates questioned me if the Market team was trying to fire me due to my tenure or was it because of my age (being over 50 years old). Again, I could not speculate because I was not sure of what was the basis of their visit." In October 2009, an Open Door investigation was conducted by Jeffrey McIver-RHRD and the allegation that Max was being forced out of his store was not substantiated.

As a result of the investigation into the allegations made by Tonja Moore, other allegations surfaced and Max Dutton received a Decision Day on November 20, 2009 for violations of policies Key and Door Controls (AP-05), Access Control Policy (IS-01) and Statement of Ethics (GE-01). The coaching was administered by Eric Litchfield and Tracey Battle. On November 23, 2009, Max responded to Eric and Tracey with a letter stating his intent to retire from Walmart effective February 1, 2010. Approximately one week later, Max requested that his retirement letter be rescinded. His request was denied. On January 20, 2010, Max wrote a letter to Bill Simon and alleged he was being forced out of his store by his Market Team. He stated "Again I question if this is retaliation for my tenure here at this store or some form of discrimination (age, tenure, gender, etc.)".

Conclusion / Recommendations: It has been determined that the findings of all previous investigations were concluded properly. The current investigation found that there is no evidence of conduct inconsistent with Walmart's policy(s).

Follow-Up: Contact with Reporting, Affected and Responding Associates.

Manager Certification: The Manager will be the Department Head, Director, Vice President, or other appropriate level for all Home Office Investigations. I am satisfied with and approve the Determinations of Fact and employment decisions and will ensure discipline is administered without regard to any person's race, color, age, sex, sexual orientation, religion, disability, ethnicity, national origin, veteran status, marital status, or any other legally protected status.

Manager's Name (print)	Manager's Signature	Date

Transforming Issues Into Resolution One Associate At A Time

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